



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

August 16, 1991

Ms. Elaine H. Piper  
Assistant City Attorney  
Police Legal Advisor  
The City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79999

OR91-376

Dear Ms. Piper:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12461.

The El Paso Police Department (the department) received two open records requests, each seeking police records involving separate incidents of child abuse. You contend that the requested information comes under the protection of sections 3(a)(1) and 3(a)(8) of the Open Records Act. Because this office has determined that the police reports are deemed confidential by law, we need not reach whether the reports are otherwise protected by section 3(a)(8).

Chapter 34 of the Family Code concerns reports of, *inter alia*, physical and mental abuse to a child to local law enforcement agencies. See Family Code § 34.012(1). Section 34.08(a) of the Family Code provides:

Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

Subsections (b) and (c) relate to the disclosure of records concerning an investigation of an adopted child to the adoptive parents, prospective adoptive parents, or to the child upon reaching adulthood. Neither subsection is applicable to the current request.



Your request is governed by Open Records Decision No. 440 (1986), a copy of which is enclosed. Because you have not cited any specific regulation that the department has adopted with regard to the release of this type of information, we assume that no such rule exists. Given that assumption, the records at issue are confidential pursuant to section 34.08(a) of the Family Code. The department must therefore withhold these records pursuant to section 3(a)(1) of the act, which protects "information deemed confidential by law." In addition, this office agrees that the fact that the requestor has obtained a copy of the sworn complaint affidavit from the El Paso Municipal Court for one of the allegations in no way affects the department's obligation under the Family Code to keep the records at issue here confidential.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-376.

Yours very truly,



Celeste A. Baker  
Assistant Attorney General  
Opinion Committee

CAB/RWP/lb

Ref.: ID# 12461

Enclosures: Open Records Decision No. 440

cc: Leticia Zamarripa  
The City of El Paso  
P.O. Box 29  
El Paso, Texas 79999